

ASSEMBLY, No. 4880

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 22, 2017

Sponsored by:

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District 32 (Bergen and Hudson)

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District 32 (Bergen and Hudson)

SYNOPSIS

Amends law to limit DEP's direct oversight of remediation of portion of contaminated site under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the remediation of certain contaminated sites
2 and amending P.L.2009, c.60.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to
8 read as follows:

9 27. a. Except as otherwise provided in subsection f. of this
10 section or section 1 of P.L.2013, c.283 (C.58:10C-27.1), as
11 applicable, the department shall undertake direct oversight of a
12 remediation of a contaminated site under the following conditions:

13 (1) the person responsible for conducting the remediation has a
14 history of noncompliance with the laws concerning remediation, or
15 any rule or regulation adopted pursuant thereto, that includes the
16 issuance of at least two enforcement actions after the date of
17 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-
18 year period concerning a remediation;

19 (2) the person responsible for conducting the remediation at a
20 contaminated site has failed to meet a mandatory remediation
21 timeframe or an expedited site specific timeframe adopted by the
22 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),
23 including any extension thereof granted by the department, or a
24 schedule established pursuant to an administrative order or court
25 order; or

26 (3) unless a longer period has been ordered by a court, the
27 person responsible for conducting the remediation has, prior to the
28 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to
29 complete the remedial investigation of the entire contaminated site
30 10 years after the discovery of a discharge at the site and has failed
31 to complete the remedial investigation of the entire contaminated
32 site within five years after the date of enactment of P.L.2009, c.60
33 (C.58:10C-1 et al.).

34 As used in this subsection, "enforcement action" means an
35 administrative order, a notice of civil administrative penalty, or a
36 court order.

37 b. The department may undertake direct oversight of a
38 remediation of a contaminated site under the following conditions:

39 (1) the contamination at the site includes chromate chemical
40 production waste;

41 (2) the department determines that more than one
42 environmentally sensitive natural resource has been injured by
43 contamination from the site;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) the site has contributed to sediments contaminated by
2 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface
3 water body; or

4 (4) the site is ranked by the department in the category requiring
5 the highest priority pursuant to the ranking system developed
6 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

7 c. For any site subject to direct oversight by the department
8 pursuant to this section:

9 (1) the department shall review each document submitted by a
10 licensed site remediation professional and shall approve or deny the
11 submission;

12 (2) a feasibility study shall be performed and submitted to the
13 department for approval;

14 (3) the department shall select the remedial action for the site;

15 (4) the person responsible for conducting the remediation shall
16 establish a remediation trust fund pursuant to section 25 of
17 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of
18 the remediation;

19 (5) all disbursements of funds from the remediation trust fund
20 shall require prior approval by the department;

21 (6) all submissions prepared by the licensed site remediation
22 professional concerning the remediation required by the department
23 shall be provided simultaneously to the department and the person
24 responsible for conducting the remediation; and

25 (7) the person responsible for conducting the remediation shall
26 implement a public participation plan approved by the department
27 to solicit public comment from the members of the surrounding
28 community concerning the remediation of the site.

29 d. The department shall issue guidelines establishing specific
30 criteria for the conditions under which a site may be subject to
31 direct oversight pursuant to subsection b. of this section.

32 e. (1) Any oversight procedure, remedy, or other obligation in
33 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation
34 conducted pursuant to and in compliance with a settlement of
35 litigation to which the department is a party if the settlement (a)
36 occurred prior to the date of enactment of P.L.2009, c.60
37 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on
38 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

39 (2) For any litigation pending or settled on the date of enactment
40 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation
41 performed pursuant to the "Resource Conservation and Recovery
42 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60
43 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or
44 other obligation imposed by a federal administrative order or
45 federal court order.

46 f. For any site subject to direct oversight by the department
47 pursuant to subsection a. of this section, the department shall not
48 undertake direct oversight for that portion of a site where a remedial

1 action workplan and any amendments thereto: (1) have been
2 approved by the licensed site remediation professional responsible
3 for the implementation of the remediation of the site, and (2)
4 comply with the requirements set forth in subsection c. of section
5 14 of P.L.2009, c.60 (C.58:10C-14). Nothing in this subsection
6 shall limit the authority of the department pursuant to section 21 of
7 P.L.2009, c.60 (C.58:10C-21).
8 (cf: P.L.2013, c.283, s.2)

9
10 2. This act shall take effect immediately.

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13 STATEMENT

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15 The bill would amend the section of the “Site Remediation
16 Reform Act” (SRRRA) pertaining to the authority of the Department
17 of Environmental Protection (DEP) to undertake direct oversight of
18 a remediation of a contaminated site. SRRRA requires the DEP to
19 undertake direct oversight of a remediation of a contaminated site
20 when: the person responsible for conducting the remediation has a
21 history of noncompliance with the laws concerning remediation that
22 includes at least two enforcement actions after the date of
23 enactment of the law during any five-year period concerning a
24 remediation; the person has failed to meet a mandatory remediation
25 timeframe or an expedited site specific timeframe; or the person,
26 prior to the date of enactment of the law, has failed to complete the
27 remedial investigation of the entire contaminated site 10 years after
28 the discovery of a discharge at the site and has failed to complete
29 the remedial investigation of the entire contaminated site within
30 five years after the date of enactment of the law.

31 This bill would provide that when the DEP undertakes direct
32 oversight under one of the scenarios described above, it would be
33 prohibited from undertaking direct oversight for that portion of the
34 site for which a remedial action workplan and any amendments
35 thereto: (1) have been approved by the licensed site remediation
36 professional responsible for the implementation of the remediation
37 of the site, and (2) comply with the requirements set forth in
38 subsection c. of section 14 of P.L.2009, c.60 (C.58:10C-14). The
39 bill would also provide that the DEP’s inspection and review
40 authority pursuant to section 21 of P.L.2009, c.60 (C.58:10C-21)
41 would not be affected.